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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,711	09/25/2003	Tetsuya Shimada	088473-0148	6374
22428	7590	06/06/2006	EXAMINER	
FOLEY AND LARDNER LLP			LE, DAVID D	
SUITE 500			ART UNIT	
3000 K STREET NW			PAPER NUMBER	
WASHINGTON, DC 20007			3681	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/669,711	SHIMADA ET AL.	
	Examiner	Art Unit	
	David D. Le	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-9 and 12 is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/08/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the third Office action on the merits of Application No. 10/669,711, filed 25 September 2003. Claims 1, 3-9 and 11-12 are pending.

Documents

2. The following documents have been received and filed as part of the patent application:
 - Information Disclosure Statement, received on 09/25/03
 - Information Disclosure Statement, received on 04/07/05
 - Replacement Drawing, received on 04/07/05
 - Information Disclosure Statement, received on 08/08/05

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05 April 2006 has been entered.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 3, 4, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,199,399 to Shibuya.**

Claims 1, 3, 4 and 11:

Shibuya (Figs. 1-4; column 2, line 24 – column 7, line 31) discloses a system and a method for controlling an engine idling speed for an internal combustion engine associated with an electro-continuously variable transmission comprising:

- An internal combustion engine (i.e., column 3, lines 40-41);
- A continuously variable transmission (i.e., column 3, lines 41-42);
- A belt (19);
- A primary pulley (16);
- A secondary pulley (17);
- An oil pump (21);
- A gear shift control section (being the control unit 14) for outputting the command signal to the gear shift actuator to supply the control hydraulic to the primary and secondary pulleys;

Art Unit: 3681

- A hydraulic pressure control valve mechanism (20) for controlling the optimum hydraulic pressure (i.e., column 4, lines 5-34);
- A plurality of shift control valves for controlling all gear shift ranges (i.e., column 4, lines 10-13);
- An electro-continuously variable transmission control unit (14) for determining whether a slip of the belt between at least one of the primary and the secondary pulleys has occurred;
- Wherein the gearshift control section (being the control unit 14) ascertains whether the vehicle is moving (i.e., column 3, lines 59-65);
- An engine control unit (30) for increasing the engine revolution speed to a speed that prevents the belt slip phenomenon (i.e., column 6, lines 59 – 66);
- Wherein the belt slip determining section determines if the belt slip therebetween occurs when the vehicle is moving and the output section outputs the signal to command the engine control unit to increase an engine speed by the inherently predetermined engine speed when the belt slip determining section determines that the slip therebetween occurs and when the vehicle is moving (i.e., column 5, line 14 – column 6, line 66; column 7, lines 10-26); and
- Wherein the gear shift controlling section outputs a signal indicating a demand on an output torque upper limit value to the engine control unit when outputting the signal to command the engine control unit to increase the engine speed by the predetermined engine speed (i.e., column 6, lines 59-66; column 7, lines 10-26).

Shibuya lacks:

- Wherein, when the belt slip determining section determines that the belt slip therebetween occurs, the output section outputs a signal to command the engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving.

As set forth above, Shibuya has already disclosed a control apparatus and a method for determining and preventing belt slip phenomena from further occurring by increasing the engine speed, while the vehicle is in motion. It would have been obvious to one of ordinary skill in the art at the time this invention to modify Shibuya such that the engine control unit 30 would continue to perform the determining and preventing of the belt slip phenomenon during engine idle operation, by increasing the engine idling speed to a predetermined idling speed, while the vehicle is stationary, in order to provide a sufficient tension of the belt as well as to improve the durability of the belt (i.e., column 6, lines 28-31).

Allowable Subject Matter

6. Claims 5-9 and 12 are allowed.

Response to Arguments

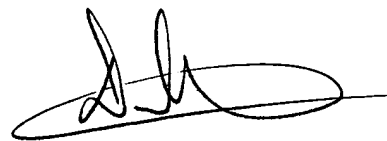
7. Applicant's arguments with respect to claims 1, 3, 4 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David D. Le
Examiner
Art Unit 3681
05/26/06